

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

RECEIVED

DEC 17 1997

In the Matter of
Advanced Television Systems
and Their Impact upon the
Existing Television Broadcast
Service

)
)
)
)
)
)

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

MM Docket No. 87-268

To: The Commission

COMMENTS OF KM BROADCASTING, INC.

KM Broadcasting, Inc. ("KMB"), licensee of Low Power Television Station W14BN, Channel 14, Richmond, Virginia, hereby submits its comments in response to the Public Notice released on December 2, 1997, with respect to the above-referenced proceeding. In that Public Notice, the Commission provided a 15-day period for comments on an *ex parte* filing in this proceeding, made on November 20, 1997, by the Association for Maximum Service Television, Inc. and other broadcasters ("MSTV"). The MSTV filing suggested 357 changes in the digital Table of Television Allotments. In response to the public notice and to the MSTV filing, KMB hereby submits Comments in this proceeding. KMB also responds briefly herein to a petition by the Association of Local Television Stations, Inc. ("ALTV") requesting power increases for some UHF stations operating in the digital mode.

2. KMB is the licensee of the aforementioned LPTV station in Richmond, Virginia. KMB has previously participated in this proceeding, objecting to various proposals in this proceeding which would have adverse effects on the low power television industry by

O+Y

requiring LPTV stations to move to new channels or cease operating altogether.

3. In response to the public notice and to the MSTV filing, the Community Broadcasters Association ("CBA") on December 15, 1997, submitted an *ex parte* supplement to its pending petition for reconsideration of the *Sixth Report and Order* in this proceeding.¹

In that supplement, the CBA notes that

The new MSTV filing continues to disregard LPTV and accordingly would have a unnecessarily and inappropriately disastrous impact on the LPTV industry and the unique local, minority, and niche programming services it provides. Thus in CBA's view, the MSTV table is not the answer to the problem of maximizing television service to the public and is in fact harmful to achieving that objective."

In response, the CBA has submitted a refined computer program which it believes

is a viable tool for the Commission to use to decrease the number of co-channel LPTV displacements without sacrificing its objectives for the conversion of full power television to digital operation. The diskettes submitted with this (CBA) pleading contain a modification of the FCC's "anneal" program to include the addition of a conflict avoidance algorithm which automatically avoids displacing LPTV and translator stations when it is possible to do so.

The CBA states that, in comparing the results of the *Sixth Report and Order's* table and the table created from the refined CBA computer program,² the number of cochannel LPTV/translator

¹ The CBA also opposed a petition by the Association of Local Television Stations, Inc. ("ALTV") requesting power increases for some UHF stations operating in the digital mode.

² This is the so-called "anneal16" program submitted with CBA's Supplement.

displacements was reduced by nearly half, from 779 stations to 477 stations, with an increase in overall interference of approximately 2.5%. This amount is so small as to be within the range of statistical error for even the Commission's own table, yet it saves 302 stations that the Commission's table would displace. CBA further maintains that the proposed interference will be decreased even further once the digital allotments for the identified problem areas are locked in place, because interference in those areas will be eliminated, although it is possible that fewer LPTV and translator stations will be saved from displacement.

KMB supports the position of the CBA in its supplement. It is clear from the record that the Commission's refusal to include LPTV stations in its digital computer program has caused unnecessary and unreasonable hardship upon LPTV stations from the beginning of this proceeding. If the MSTV is allowed at this late date to propose further changes in the FCC's proposed digital allotment table, then the information in the CBA's "anneal16" program should also be considered by Commission staff. As long as the Commission is going to take the time to revise the digital allotment table, it should do so with an eye to minimizing the damage to the LPTV industry

If the Commission is not going to consider the "anneal16" program submitted by the CBA, then KMB urges that the Commission reject the new MSTV proposal filed on November 20, 1997, altogether. The FCC consideration of the untimely MSTV proposal at this late date will only serve to delay this proceeding even further. The Commission must focus on the resolution of the

numerous petitions for reconsideration of its initial digital allotment table, rather than make additional changes which will also surely be the subject of administrative appeal. The Commission will descend into an endless maelstrom of administrative appeals if it adopts the MSTV proposal at this late date.

The same principle applies to the petition by the Association of Local Television Stations, Inc. ("ALTV") requesting power increases for some UHF stations operating in the digital mode. As noted in the CBA supplement, the Commission has spoken on this issue, and KMB is firmly opposed to any change in the FCC's position on this issue at this late date. KMB certainly would oppose any FCC changes on this issue without a full notice and comment period to explore fully any rules changes, rather than rush through an attenuated comment period on such an important issue to LPTV licensees.

Respectfully submitted,

KM BROADCASTING, INC.

By: Robert E. Kelly
Robert E. Kelly, President

1140 Connecticut Ave., NW
Suite 606
Washington DC 20036
(202) 293-3831

Dated: December 17, 1997